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UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: R. Mancho

Art Unit: 3661

Copy

30 Appeal
Brief
6/24/02
Done

1/2

In re:

Applicant: KUSCHKE

Serial No.: 09/095,397

Filed: June 10, 1998

RECEIVED

JUN 24 2002

GROUP 3600

BRIEF ON APPEAL

May 30, 2002

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

This is an Appeal from the final rejection of claims 1-8 by the
Primary Examiner.

06/12/2002 SDENB0B1 00000088 194675 09095397
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AT 13661

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
233

In Re Application Of: KUSCHKE, W., ET AL *COPY OF PAPERS
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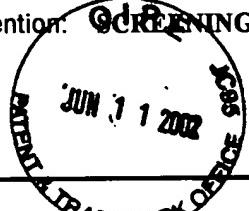
Serial No.
09/095,397

Filing Date
06/10/98

Examiner
MANCHO, R.

Group Art Unit
3661

Invention: SCREENING HOUSING FOR MICROWAVE CIRCUITS



TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on
MAY 14, 2002

The fee for filing this Appeal Brief is: \$320.00

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GROUP 3600

- A check in the amount of the fee is enclosed.
- The Commissioner has already been authorized to charge fees in this application to a Deposit Account. A duplicate copy of this sheet is enclosed.
- The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 19-4675
A duplicate copy of this sheet is enclosed.

A handwritten signature in black ink, appearing to read "Michael J. Striker". Below the signature, the word "Signature" is printed in a small font.

Dated: MAY 30, 2002

I certify that this document and fee is being deposited on
MAY 30, 2002 with the U.S. Postal Service as first
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20231.

A handwritten signature in black ink, appearing to read "Michael J. Striker". Below the signature, the text "Signature of Person Mailing Correspondence" is printed in a small font.

MICHAEL J. STRIKER

Typed or Printed Name of Person Mailing Correspondence

CC:

Real Party of Interest

The real party of interest in this application is Marconi Intellectual Property, at Waterhouse Land, Chelmsford, Essex CM1 2QX, England

Related Appeals and Interferences

There are no other appeals or interferences known to appellant, the appellant's legal representative, or assignee which would directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

The above application contains claims 1-8.

All claims are pending and they were rejected by the Examiner in the final Office Action of November 30, 2001.

Status of Amendments

After the Final Office Action of November 30, 2001, the appellants filed a Request for Reconsideration dated March 27, 2002.

In the Advisory Action the Examiner indicated that the Request for Reconsideration would be entered upon filing of appeal.

Summary of the Invention

the present invention deals with a screening housing for microwave circuits which is identified as a whole with reference numeral 1. The screening housing has a single large chamber 2 which can be produced for example by milling from a metal block. The chamber 2 serves for receiving of microwave circuits which must be screened electromagnetically from outside. The housing 1 is closed with a cover 3.

The separating joints between the housing walls and the cover must be sealed so that no electromagnetic energy can escape outwardly. Several subunits which must be screened magnetically from one another are usually located in such a screening housing. For this purpose, several chambers for receiving individual circuit unit which must be screened electromagnetically from one another are provided in the interior of the housing 1.

Figure 2 shows how the chambers are formed in the screening housing 1, and a perspective view of the inner side of the housing cover 3 is illustrated. A substrate 4 composed of a polymer with embedded metal particles is arranged on the inner side of the cover 3. The substrate 4 for example is composed of a silicone mass which is filled with iron powder. Several webs 5, 6, 7, 8 are provided on the face of the substrate 4 which faces toward the interior of the housing 1. When the cover 3 is placed on the

housing, the separating walls 5, 6, 7, 8 together with the cover 3 form the individual chambers inside the screening housing. As shown in the embodiment of Figure 2, the webs 5, 6, 7, 8 can have an arbitrarily complicated structure.

The substrate 4 with the webs 5, 6, 7, 8 can be manufactured in a simple manner by casting with a mold on the inner side of the cover 3. The webs 5, 6, 7, 8 abut in a form-locking manner against the bottom of the chamber 2 when the cover 3 is placed on the housing. Additionally, they can be provided with throughgoing openings 9, 10, 11 for connecting conductors between the individual circuit units.

The webs 5, 6, 7, 8 which are composed of polymer with embedded metal particles have not only the function of screening walls but also dampen simultaneously the undesired resonance frequencies in the chamber.

This is disclosed essentially on pages 6 and 7 of the specification and shown in the drawings.

Issues

In the Final Office Action the Examiner rejected claims 1, 2, 5 and 6 under 35 U.S.C. 102(e) over the patent to Kaneshige, et al. It is

therefore first issue under appeal whether these claims are rejected as being anticipated by the patent to Kaneshige.

Claims 3, 4, 7 and 8 were rejected under 35 U.S.C. 103(a) over the patent to Kaneshige in view of the patent to Chung, et al. Therefore the second issue on appeal is whether the claims are rejectable over the combination of these references in the sense of U.S.C. 103(a).

The Examiner indicated in the Office Action and in the Advisory Action that corrections to page 1 were not accepted to him. Thus, another issue is whether the Amendment of page 1 made by appellants should be considered as acceptable.

Grouping of Claims

Claims 1 and 7 are separately patentable.

Claims 2-6 stand and fall together with claim 1, while claim 8 stands and falls together with claim 7.

Argument

Claim 1, the first independent claim on file, defines a screening housing 1 for microwave circuits which has a housing body with an interior. The housing body is open at least at one of its side. A cover 3 closes the

interior of the housing 1. A substrate 4 is mounted on the inner side of the cover 3. A plurality of chambers 2 are provided for accommodating of individual circuit units, so that the individual circuit units are screened from one another. A plurality of webs 5, 6, 7, 8 are provided and formed directly on the substrate 4, so that when the cover 3 closes the housing body the webs 5, 6, 7, 8 form separating walls between the chambers.

Claim 7 additionally defines that the substrate 4 is composed of a polymer with embedded metal particles and applied on the inner side of the cover 3.

The patent to Kaneshiga applied by the Examiner discloses a device which is similar in some aspects to the device defined in claims 1 and 7. In particular, the device disclosed in the patent to Kaneshiga is a screened housing for microwave circuits. It includes a housing body with an interior, which housing body is open at least at one side. A cover 11 closes the interior of the housing body. A substrate 12 is mounted on the inner side of the cover 11. Means forming a plurality of chambers for accommodating individual circuits 17 are further provided, so that the individual circuits are screened from one another. The chamber forming means include the substrate 12 on the inner side of the cover and also a plurality of webs 13.

As defined in claims 1 and 7 of the applicant's invention, the webs are formed directly on the substrate. In contrast, as specifically explained in column 4, lines 4-12 of the patent to Kaneshiga, the substrate 12 is formed and the shielding effect of the webs or walls 13 is obtained by plating the inside end walls of the cover with nickel, copper and other suitable material. This teaching is very assertive of the fact that the walls 13 must be present before the substrate/plating is formed. Therefore, the webs or walls are not provided directly on the substrate 12 and can not be provided on the substrate. This reference teaches away from the main feature of the present invention, in particular that the webs are formed directly on the substrate.

It is believed to be clear that the patent to Kaneshiga does not teach these new features of the present invention which are now defined in claims 1 and 7. These features are not disclosed in the reference and can not be derived from it as a matter of obviousness.

In order to arrive at the applicant's invention from the teaching of the reference the reference has to be fundamentally modified, by changing its construction so as to include the new features of the present invention as defined in claims 1 and 7. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the patent to Kaneshiga does not provide any suggestion for such modifications.

The patent to Chung which was applied in combination with the patent to Kaneshiga also does not teach these new features of the present invention. Therefore, any combination of the teachings of these two references would lead only to such a construction which would not include the new features of the present invention.

Claims 1 and 7 should be therefore considered as patentably distinguishing over the art and should be allowed. This is how the first and second issues under appeal should be decided.

As for the Examiner's objection to the first page of the specification, this objection has been repeatedly not understood. With the previous Amendment and the Request for Consideration, appellant has

corrected page 1 of the specification; however, the Examiner repeatedly objected to it. It is believed that page 1 of the specification is written in idiomatic English and should be accepted. This is how the third issue under appeal has to be decided.

Reconsideration of present application, reversal of the Examiner's rejection, and allowance of the present application are most respectfully requested.

Respectfully submitted,



Michael J. Striker
Attorney for Applicants
Reg. No. 27233

APPENDIX

1. A screening housing for microwave circuits comprising a housing body having an interior, said housing body being open at least at one side thereof; a cover closing said interior of said housing; a substrate mounted on an inner side of said cover; and means forming a plurality of chambers provided for accommodating of individual circuit units so that said individual circuit units are screened from one another, said means including said substrate on said inner side of said cover and a plurality of webs which are formed directly on said substrate so that when said cover closes said housing body said webs form separating walls between said chambers.
2. A screening housing as defined in claim 1, wherein said housing body is composed of an electromagnetic energy screening material.
3. A screening housing as defined in claim 1, wherein said substrate is composed of a polymer with embedded metal particles.
4. A screening housing as defined in claim 3, wherein said substrate is composed of a silicone mass with embedded metal powder.
5. A screening housing as defined in claim 1, wherein said substrate and said webs are formed of one piece with one another.

6. A screening housing as defined in claim 5, wherein said substrate and said webs are composed of the same material.

7. A screening housing for microwave circuits, comprising a housing body having an interior said housing body being open at least at one side thereof; a cover closing said interior of said housing; a substrate composed of a polymer with embedded metal particles and applied on an inner side of said cover; and means forming a plurality of chambers provided for accommodating of individual circuit units so that said individual circuit units are screened from one another, said means including said substrate applied on inner said side of said cover and a plurality of webs which are formed directly on said substrate so that when said cover closes said housing body said webs form separating walls between said chambers.

8. A screening housing as defined in claim 7, wherein said substrate and said webs are made from the same material and formed of one piece with one another.